

LABOUR DEPARTMENT

The 4th March, 1982

No. 9(1)82-8Lab/1619.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. The Ambala Central Cooperative Bank Ltd., Ambala:—

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA FARIDABAD

Reference No. 79 of 1980

between

SHRI JAI BHAGWAN WORKMAN AND THE MANAGEMENT OF M/S. THE AMBALA CENTRAL CO-OPERATIVE BANK LIMITED, AMBALA CITY.

Present.—

Shri Rajeshwar Nath for the workman.

Shri S. C. Chawla for the management.

AWARD

By order No. ID/Amb/171-80/60168, dated 15th December, 1980, the Governor of Haryana referred the following dispute between the management of M/s. The Ambala Central Co-operative Bank Limited, Ambala City, and its workman Shri Jai Bhagwan, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) or sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Jai Bhagwan was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 17th March, 1981:—

1. Whether Shri Jai Bhagwan is not a workman as defined in the I.D. Act?
2. Whether the termination of services of Shri Jai Bhagwan was justified and in order?
3. Relief.

The management examined Shri Lal Chand, Establishment Officer as MW-1, Shri Nasib Singh, Assistant Manager, Karnal as MW-2 and Shri Hans Raj, Assistant Manager, Ambala City as MW-3. The workman examined himself as WW-1 and closed his case. Arguments were heard. I now give my finding issue-wise.

Issue No. 1

MW-1 stated that he knew Shri Jai Bhagwan whose appointment letter was Ex.-M-1. He was posted as Accounts Clerk in Saving Branch of the Co-operative Bank, Naraingarh. WW-1 stated that he was Clerk-cum-Cashier.

On the evidence led by the parties, I do not find as to how Shri Jai Bhagwan was not a workman defined in the I.D. Act. This issue is, therefore, decided against the management.

Issue No. 2.

MW-1 deposed that in the Naraingarh Branch there was an account of Shri Flel Singh who was an Army Personnel. When the depositor went to withdraw some money from his account he found that a sum of Rs. 4,200 had been withdrawn from his account by some one else. He made a complaint to the Manager and made a report to the police. Copy of complaint to the SHO was Ex. M-2. The concerned workman was suspended,—*vide* Ex. M-3. The workman was found absent after suspension. His explanation was called,—*vide* Ex. M-5. Shri Hans Raj Assistant Manager made enquiry into the case and held Shri Jai Bhagwan guilty. Termination letter Ex. M-5 was issued to him. A notice Ex. M-6 was received from the workman which was replied,—*vide* Ex. M-7. MW-2 stated that he was Branch Manager, Central Co-operative Bank Ltd., Naraingarh, in the year 1973. The workman was posted as a clerk in the branch. He further deposed that the concerned workman withdrew an amount of Rs. 4,200 from the account of one Shri Flel Singh, son of Shri Jassa, village

Ahmedpur and transferred the same to Punjab and Sind Bank, Dhulkot. Shri Flel Singh made a complaint on 29th January, 1974 that the sum was withdrawn from his account although he did not issue any cheque. He further deposed that he made a report in this behalf to head office Ambala City. Shri Hans Raj, Assistant Manager was appointed to enquire into the matter. In cross examination he admitted it as correct that the transfer voucher bore his signature as Branch Manager but the voucher was prepared by the concerned workman. He did not know if the police had discharged the concerned workman. MW-3 stated that in the year 1974 he was posted in the Central Cooperative Bank, Ambala City. He was appointed Enquiry Officer in the case of Shri Jai Bhagwan. He had called Shri Jai Bhagwan for the enquiry and he submitted his report Ex. M-8 in which he found the workman guilty. In cross-examination he stated that he had no copy of chargesheet at the time of his appointment as Enquiry Officer. He had recorded the statement of Shri Jai Bhagwan in the enquiry. He had recorded the statement of witnesses in Naraingarh Branch. He did not recollect the date of enquiry. He also did not recollect if Shri Jai Bhagwan was present when he recorded the statement of witnesses.

WW-1 stated that he was suspended on 28th February, 1974 and his services were terminated on 31st January, 1975. He was not issued any chargesheet, nor enquiry was held against him. He was called on 29th July, 1974 by the Assistant Manager, Shri Hans Raj at Naraingarh. He was discharged by the police. In cross-examination he stated that he had raised demand after five years. He also admitted that his services were terminated after enquiry. He admitted that he had served the management with a notice through Shri Y.P. Gupta Advocate but he did not know if the management had sent reply of the notice. He admitted that Shri Sasib Singh had made a complaint against him. He did not know if his services were terminated on the enquiry report of Shri Hans Raj.

I have gone through the documents produced by the management and found that the Enquiry Officer took great pains in finding out the facts of the case as was evident from his report Ex. M-8 which was dated 21st August, 1974. The report gives minute details and is logical. The Enquiry Officer reached the conclusion by going through the records of the bank and also of the Drawee Branch of Punjab and Sind Bank, Dhulkot and ascertaining the person in whose account the sum of Rs. 4,200 was deposited and also the connection of Shri Jai Bhagwan concerned workman with that person. I am convinced by reading the enquiry report that the concerned workman was involved into withdrawal and therefore he was found guilty by the Enquiry Officer. As regards the contention of the learned representative for the workman that the enquiry was not held according to the principles of natural justice and all the evidence was not taken in the presence of the concerned workman. I am of the opinion that strict rules of evidence were not applicable to domestic enquiries, nor too much legalism was expected in such matters from the Enquiry Officer. Every case has its own merit and the present one is about withdrawal of certain amount from a depositor's account clandestinely by an official of the bank. In this case two banks were involved namely Central Cooperative Bank, Ambala City Branch, Naraingarh and Punjab and Sind Bank Branch, Dhulkot. Likewise two bank accounts in two Branches were also involved as such the Enquiry Officer was to collect facts from the records of the two branches and also about the whereabouts of the person in whose account the money of depositor was transferred. It was not expected from the Enquiry Officer that he could summon for records of the other bank or could take the suspected official with him all the time. As I have pointed out earlier that the Enquiry report is full of facts to bring home the charge against the concerned workman. The concerned workman was issued final show-cause notice on 17th September, 1974, in which the findings of the Enquiry Officer were briefly given and consequently his services were terminated on 31st January, 1975. The workman issued a registered legal notice on 17th March, 1975 which was replied on behalf of the Bank by Shri Sardara Singh, Advocate. The workman chose to raise the present dispute after a lapse of more than five years. By the above discussion, I find that the concerned workman was given full opportunity by the management and there is nothing wrong in the order of termination passed by the management. This issue decided in favour of the management.

Issue No. 3

The workman is not entitled to any relief.

While answering the reference, I give my award that the termination of services of the workman was justified and in order. The workman is not entitled to any relief.

Dated 1st February, 1982

M. C. BHARDWAJ,
Presiding Officer, Industrial
Tribunal, Haryana, Faridabad.

No. 143, dated 5th February, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer, Industrial
Tribunal, Haryana, Faridabad.